

## REMARKS

Claims 40-42, 44, 46-47, and 50-51 are currently pending in the present application. Reconsideration and reexamination of the claims are respectfully requested.

The Examiner rejected Claim 41 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. This rejection is respectfully traversed.

The Examiner remarked that claim 41 includes a music score, but that the specification does not disclose how to select a time portion of a music score. Applicants respectfully disagree. The Examiner's attention is directed to Figs. 9-11 of the present application, which are discussed in detail between page 45, line 12 and page 48, line 16. As shown in the figures, portions of music scores are selectable by a consumer for purchase. It is inherently understood that designation of a particular portion of a musical score would necessarily involve a designation of time information that correspond to the selected portion. Applicants respectfully submit that the specification adequately supports the specific recitation of a music score.

The Examiner rejected Claims 40, 42, 44, 47, 50, and 51 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,502,194 (Berman et al.) in view of Applicant's admitted prior art ("AAPA"). This rejection is respectfully traversed.

As previously communicated, the present invention is directed to methods and apparatuses for supplying/receiving music data via a network. The novel aspect of these claims is the ability by the user to designate a desired portion of a displayed single music piece and receive music piece data that is created to correspond with the *selected time portion* of the single music piece. In accordance with the preferred embodiment, the desired portion of music piece to be purchased is selected by a particular time portion of the single music piece, and that the selling price of the partial music piece, designed by the selected time portion, is less than the selling price of the entire single music piece, and is determined on either the length or the particular time location of the partial music piece on the entire single music piece.

Berman does not contain any disclosure of a method of supplying music piece data over a network whereby a user designated a desired time portion of a music piece, of which the entire

time length is displayed for designation by the user. Nor does Berman teach or suggest creating partial music piece data corresponding to the selected time portion that is designated by a user. Rather, Berman discloses displaying multiple selections of music (*i.e.*, tracks of songs) of a disk, each of which may selected for playback on a computer. Berman further discloses that, as a part of "housekeeping chores," which are background operations that include downloading the first few seconds of each track on a selected disk so as "to reduce the latency time when one of the tracks is later selected by the user." (Col. 8, lines 58-59). There is no disclosure of any kind directed to displaying an entire piece of music, receiving request to designated a time portion of that music, and creating partial musical piece data based upon such a selection. Rather, what Berman discloses is simply an automatic pre-load process that occurs regardless of whether there is a selection, and there is no opportunity for a user to select any portion of a music piece. This deficiencies of Berman is not made up in the admitted prior art.

Applicants respectfully submit that Claims 40, 42, 44, 47, 50, and 51 are not anticipated by Berman, or obvious in view of the combination of Berman and the admitted prior art.

The Examiner rejected Claims 41 and 46 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Berman and AAPA and in further view of U.S. Patent No. 6,096,962 (Cowley). This rejection is respectfully traversed.

Claims 41 and 46 are dependent upon Claim 40, and are respectfully distinguished from Berman and AAPA for the same reasons provided above. Cowley, which discloses a method for generating a musical score, does not make up for the above-referenced deficiencies of Berman and AAPA. Accordingly, Applicants respectfully submit that Claims 41 and 46 are not obvious in view of the combination of Berman, AAPA, and Cowley.

In view of the foregoing, Applicants respectfully submit that all of the pending claims are in condition for allowance. If the Examiner believes it would further advance the prosecution of the present application, he is respectfully requested to contact the undersigned attorney.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for

any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 39303.20243.00.

Respectfully submitted,

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